

REMARKS

This paper is timely filed, as it is submitted with a certificate of mailing under 37 C.F.R. §1.8, a petition for a one-month extension of time, and a check for the required petition fee under 37 C.F.R. §1.17(a)(1).

I. STATUS OF THE CLAIMS

Claims 1-50 are pending in this application. Claims 31-50 are withdrawn from consideration and claims 1-30 are rejected. As a result, claims 1-30 are at issue with claim 1 being the only independent claim at issue. No amendments are being made by this paper.

II. REJECTIONS UNDER 35 U.S.C. §103

Applicants respectfully traverse the rejections of claims 1-30 as obvious over Bugarin et al. (U.S. Patent No. 6,606,570) in view of the Examiner's official notice.

Generally speaking, each of claims 1-30 recites a method of analyzing a plurality of process control instruments that includes receiving data related to the specific process control environment in which the plurality of process control instruments are to be used and displaying performance characteristics for each of the plurality of the process control instruments simultaneously via a computer device. In this manner, the claimed method provides the user, via a computer device, with performance information needed to decide which of the various possible process control instruments would be best suited in the particular process control environment, based on the user's needs.

Generally speaking, Bugarin et al. fails to provide any disclosure or suggestion of providing performance characteristics of various process control instruments to a user (in any manner much less via a computer device) to enable the user to select one of various possible process control instruments that best satisfies the user's needs in a particular process control environment. Still further, Applicants respectfully traverse the Examiner's effective official notice that providing such performance characteristics via a computer device to a user is

known or is obvious, as the Examiner has provided no documentary evidence to support such official notice. Applicant's submit, therefore, that the Examiner has failed to provide a *prima facie* case of obviousness, and respectfully request withdrawal of the rejections.

While Bugarin et al. appears to disclose a system that calculates various process control device parameters from process control environment information, as the examiner recognizes, Bugarin et al. does not disclose or suggest that it would be desirable or even possible to display performance characteristics for each of the possible process control instruments to thereby enable a user to make a selection as to which of the possible process control instruments would be best suited to the particular use within the process control environment. In fact, Bugarin et al. merely discloses determining which device(s) would fit a particular process use based on process characteristics and then allowing a user to select one of the devices without providing that user with performance characteristics for the different process control devices. Bugarin et al. simply fails to recognize that the user may need, or have a desire, to select a process control instrument for use in the process environment based on the performance characteristics of that instrument, much less of enabling the user to do so via a computer device.

Furthermore, Applicants respectfully traverse each of the instances in which the Examiner takes official notice in the office action. Generally speaking, official notice should be used sparingly by examiners, and when used, must be accompanied by some form of evidence in the record to support the assertion. See *In re Lee*, 61 USPQ 2d, 1434-1435 (Fed. Cir. 2002), in which the Federal Circuit holds that general conclusions concerning basic knowledge or that which is well known to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection. See also, MPEP § 2144.03. Accordingly, while the Examiner is apparently taking notice that one skilled in the art would generally know to

simultaneously provide performance characteristics for various process control instruments via a computer device in conjunction with receiving data related to the specific process control environment in which the plurality of process control instruments are to be used via the computer device, the Examiner has provided no documentary evidence of this assertion. Thus, the Examiner has failed to establish that one skilled in the art would know to provide performance characteristics of various potential process control instruments that could be used in a process control environment via a computer device, as recited by each of claims 1-30.

Likewise, Applicants note that, while the Examiner states that one skilled in the art would know to provide the calculations of a computer via a computer display, it does not follow that doing so in the Bugarin et al. system would result in a system that displays performance characteristics for each of the various process control instruments, as recited by claims 1-30. In particular, the Bugarin et al. system appears to (1) calculate “flowmeter parameters” from process control environment data, (2) determine whether one or more stored Coriolis flowmeter devices meet those parameters and then (3) provide a list of the Coriolis flowmeters which satisfy those calculated parameters to the user. First of all, it is not clear that the calculated “flowmeter parameters” of Bugarin et al. would be the recited “performance characteristics” and thus, that displaying these parameters would necessarily meet the recited limitation. However, even if the calculated flowmeter parameters were generally considered to be “performance characteristics,” displaying these calculated parameters would still not meet the recited limitation of “displaying performance characteristics for *each* of the plurality of the process control instruments” as there is only one set of calculated performance characteristics. Still further, each of the process control instruments displayed to the user in the Bugarin et al. system would presumably meet these characteristics and thus there would be no need or reason to display the calculated

performance characteristics for each of the possible process control instruments, as the performance characteristics would be the same in all instances. Because displaying the calculated performance characteristics of Bugarin et al, as suggested by the Examiner, does not meet the recited limitations of claim 1, the Examiner has failed to establish a *prima facie* case of obviousness even with the Examiner's official notice.

In any event, pursuant to MPEP § 2144.03, Applicants respectfully request that the Examiner provide documentary evidence that one skilled in the art would know to provide performance characteristics of various potential process control instruments that could be used in a process control environment via a computer device in conjunction with receiving data related to the specific process control environment in which the plurality of process control instruments are to be used via the computer device, as recited each of claims 1-30 or to withdraw the rejections of these claims based on the Examiner's official notice. Likewise, Applicants respectfully request that the Examiner provide documentary evidence of the other instances of the official notice taken by the Examiner with respect to the dependent claims, or to withdraw the rejections of these claims as well.

III. CONCLUSION

For these foregoing reasons, Applicants submit the application is in condition for allowance. Reconsideration and withdrawal of the rejections and allowance of the claims are therefore respectfully requested. If there are any additional fees or refunds required, the Commissioner is directed to charge or credit Deposit Account No. 13-2855 (30203/37573).

A copy of this paper is included for this purpose.

Respectfully submitted,

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